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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RICHARD QUINONES, Plaintiff, v. OCWEN LOAN SERVICING, LLC, Defendant.	Case No.: 2:17-cv-03526-DDP-FFM **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PRECLUDE REFERENCES TO OTHER OCWEN PROCEEDINGS** Hon. Dean D. Pregerson <u>Motion Hearing & Pretrial Conference:</u> Date: October 22, 2018 Time: 11:00 A.M. <u>Trial:</u> Date: October 31, 2018 Time: 9:00 A.M.

Case No.: 2:17-cv-03526-DDP-FFM   *Quinones v. Ocwen Loan Servicing, LLC*

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PRECLUDE REFERENCES TO OTHER OCWEN PROCEEDINGS

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1 Plaintiff, RICHARD QUINONES ("Plaintiff"), respectfully submits this

2 Opposition to Defendant, OCWEN LOAN SERVICING, LLC'S ("Defendant"),

3 Motion in Limine to Preclude References to Other Ocwen Proceedings

4 ("Defendant's Motion") at the time of trial.

5 **I.   ARGUMENT**

6 Evidence of prior litigation or claims involving Defendant is relevant and

7 probative because the TCPA expressly provides for increased damages if the

8 finder of fact determines that Defendant acted willfully or knowingly.

9 Specifically, the Court may triple the amount of damages for a willful or knowing

10 violation. 47 U.S.C. § 227(b)(3)(C). Thus, evidence of other proceedings

11 demonstrating that Defendant regularly or routinely engages in the same abusive

12 calling practices alleged, here, may support an award of treble damages. *See*

13 *Barnes v. Conn Appliances, Inc.*, 2018 U.S. Dist. LEXIS 146470, *9 (S.D. Miss.

14 Aug. 28, 2018) ("evidence of prior litigation or claims may be relevant to the issue

15 whether defendant acted willfully or knowingly" under the TCPA); *Lardner v.*

16 *Diversified Consultants, Inc.*, 2014 U.S. Dist. LEXIS 68572, *2-3 (S.D. Fl. May

17 8, 2014) ("If there is prior litigation finding that Defendant violated the TCPA

18 using the same practices as it did in the present action, then this evidence would

19 support a finding that Defendant knew it was violating the TCPA.").

20 Defendant's improper attempt to sanitize testimony and limit the evidence

21 Plaintiff may present at trial to fully establish his damages should be denied.

22 **II.   CONCLUSION**

23 Plaintiff should not be precluded from offering evidence of other

24 proceedings involving Defendant because such evidence is relevant and probative

25 as to whether Defendant acted willfully in the present matter. Thus, Plaintiff

26 respectfully requests that this honorable Court deny Defendant's Motion in its

27 entirety.

28

Case No.: **2:17-cv-03526-DDP-FFM**   **1 of 2**   *Quinones v. Ocwen Loan Servicing, LLC*

PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION IN LIMINE TO PRECLUDE REFERENCES TO OTHER OCWEN PROCEEDINGS

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2   Dated: October 8, 2018

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Respectfully Submitted,

KAZEROUNI LAW GROUP, APC

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